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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,118	06/26/2003	Ray D. Heineman	47320.0128	1117
20874	7590	10/03/2005	EXAMINER	
WALL MARJAMA & BILINSKI 101 SOUTH SALINA STREET SUITE 400 SYRACUSE, NY 13202			CHEN, TIANJIE	
			ART UNIT	PAPER NUMBER
			2652	

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/604,118

Applicant(s)

HEINEMAN ET AL.

Examiner

Tianjie Chen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 12-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ Claim(s) 7-11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## ***Non-Final Rejection***

### ***Election/Restrictions***

1. Applicant's election with traverse of Species Id claims 1, 7, and 11 in the reply filed on 07/29/2005 is acknowledged. The traversal is on the ground(s) that the restriction requirement is incorrect. This is not found persuasive because the reason has been properly presented in the Office action mailed on 04/29/2005.

The requirement is still deemed proper and is therefore made FINAL.

2. Since claim 7 is found allowable and is generic to claims 8-10; claims 8-10 rejoin for examination. Finally, claims 1 and 7-11 are under examination.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hidano et al (US 5,442,500).

Claim 1, Hidano et al shows a magazine-based data cartridge library in Fig. 2 including: a cabinet 3; a shelf system 2b, located within the cabinet, for supporting at least two data cartridge magazines 30 and including at least one shelf; a drive 95 that is located within the cabinet; a magazine transport device 52, located within the

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cabinet, for moving a data cartridge magazine within a portion of an interior volume defined by the cabinet;

a cartridge transport device, located within the cabinet, for moving a data cartridge 10 between a data cartridge magazine and the drive Column 4, lines 25-31); and an entry/exit port 51 for conveying a data cartridge magazine between an environment that is exterior to the cabinet and a space that is interior to the cabinet; wherein the space is accessible to the magazine transport device so that the magazine transport device can move a data cartridge magazine between the space and the shelf of the shelf system.

***Allowable Subject Matter***

4. Claims 7-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

- Claim 7, as the closest reference, Hidano et al (US 5,442,500) a magazine-based data cartridge library including: a cabinet; at least two data cartridge magazines; a magazine transport device, an entry/exit port for conveying a data cartridge magazine between an environment that is exterior to the cabinet and a space that is interior to the cabinet; the entry/exit port includes a tray; wherein the tray is comprised of a planar surface; **but fails to show** a first end surface that is operatively connected to the planar surface and extends away from the planar surface, a second end surface, and means for allowing the second end surface to move between: (a) a first position that is **in opposition** to the first end surface to prevent movement of a data cartridge magazine in a

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direction with a component transverse to the first and second end surfaces, and  
(b) a second position that is **not in opposition** to the first surface so that a data cartridge magazine can be moved in a direction with a component transverse to the first and second end surfaces.

- Applicant asserts that movable end wall (first surface) is comprised of an S-shaped member that is pivotally attached to brackets as shown in Fig. 18C, to prevent a magazine from entering the operational space of the magazine transport and cartridge transport in an uncontrolled fashion. Moving S-shaped member into the second position so that the magazine transport either remove a magazine from the tray or associate a magazine with the tray ([0121]).

### **Conclusion**

5. The prior art made of record in PTO-892 Form and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tianjie Chen whose telephone number is 571-272-7570. The examiner can normally be reached on 8:00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen can be reached on 571-272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**TIANJIE CHEN**  
**PRIMARY EXAMINER**